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RUEATRS/DEPT OF TREASURY WASHINGTON DC
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C O N F I D E N T I A L KINGSTON 000749

SIPDIS
STATE FOR WHA/CAR (J.MACK-WILSON, V.DEPIRRO, W.SMITH)
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JUSTICE FOR OIA (P.PETTY)
TREASURY FOR ERIN NEPHEW
INR/RES (R.WARNER)
AMEMBASSY BRIDGETOWN PASS TO AMEMBASSY GRENADA

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XL
SUBJECT: EXTRADITION JAMAICA: CHRISTOPHER MICHAEL COKE

REF: STATE 122699 (302220Z NOV 09)(NOTAL)
KINGSTON 962 (171909Z NOV 09)(NOTAL)
KINGSTON 924 (041544Z NOV 09)(NOTAL)
KINGSTON 731 (021835Z NOV 09)(NOTAL)

CLASSIFIED BY: LWMoss, P/E Counselor, State, Kingston; REASON:
1.4(B), (D)

Summary, Analysis, and Recommendation

1.(C) The Government of Jamaica (GoJ) requests "technical legal discussions" with the USG regarding the Mutual Legal Assistance Treaty (MLAT) in reference to the U.S. request for the extradition of Christopher Michael Coke to face narcotics and firearms smuggling charges in New York, and in reference to future extradition requests. In Post's estimate, this is a delaying tactic: Coke's power in Tivoli Gardens and elsewhere in the country, and influence over Prime Minister Bruce Golding's ruling Jamaica Labour Party (JLP), are deeply entrenched. The GoJ understandably fears bloodshed and civil unrest if he were arrested. Post recommends that DOS and DOJ comply with the GoJ's request to hold direct discussions regarding the applicability provisions of the bilateral MLAT in the Coke extradition request. The GoJ's Solicitor General has indicated to Charge' that he is willing to travel to Washington for consultations. End Summary, Analysis, and Recommendation.

2.(C) Per reftel (A), Charge' delivered the USG response to the Government of Jamaica (GoJ)'s Minister of Justice Dorothy Lightbourne's October 30 letter (reftel D) during a private meeting with her, Minister of Foreign Affairs and Foreign Trade Dr. Kenneth Baugh, Ministry of Foreign Affairs and Foreign Trade (MFAFT) Permanent Secretary Amb. Evadne Coye, and Solicitor General Douglas Leys, held at MFAFT the morning of December 1. Charge' reiterated that the USG had been completely above board in pursuing the Coke extradition request: the former U.S. Ambassador had advised the Prime Minister in 2007 that the case was under investigation and that an extradition request could be forthcoming, and USG law enforcement officials had coordinated closely and extensively with officials of the Jamaica Constabulary Force (JCF) and the Director of Public Prosecutions (DPP) prior to the request. While the U.S. had many good programs and initiatives ongoing in Jamaica, the Coke extradition request was by far the most important bilateral law enforcement issue and is receiving

widespread attention among USG agencies. The request had been handled in accordance with the Extradition Treaty; all required information had been provided. The USG recognized that the Treaty allowed the GoJ to request additional information, and we had been as forthcoming as practicable; however, the questions raised to date by the GoJ should more properly be considered following Mr. Coke's arrest, in the course of an extradition hearing in which his attorneys could contest the content of the request. The USG recognized that this particular extradition request would not be easy to implement, but that the USG expected compliance, as had been the practice in prior extradition requests. However, as a good partner, the USG offered to assist in any way. Charge' noted that he had arrived in Jamaica on August 18, and the extradition had been requested on August 20; the USG was disappointed with the lack of progress to date.

3.(C) Minister Baugh expressed concern that the GoJ must follow due legal process in handling extradition requests. Noting that he was not a legal technician, Baugh then asked Solicitor General Leys to explain the GoJ's position. Leys began by noting that this was not the best forum for technical legal questions, as USG attorneys were not present, and the GoJ "fears that the matter requires technical discussions," as there were "legal issues to be resolved." After examining USG response, Leys said that "we had expected a more definitive answer." He then asserted that "this extradition request is outside the norm," and questioned whether it represented a "developing trend" in which Jamaican constables would give evidence in U.S. courts. He said the Coke extradition request raised questions as to how similar requests would be treated in the future. Answers were needed so that he could "inform

the Attorney General Lightbourne as she exercises her responsibilities."

4.(SBU) Charge' then asked whether the GoJ considered the information provided by the USG in the request insufficient to meet the requirements of the Extradition Treaty. Leys replied that this was not the case; however, the Extradition Treaty was only one aspect of "normal routine." The steps under the MLAT must be "better informed," particularly with respect to wiretap evidence. Had the wiretap evidence been properly obtained? This "extraordinary subject requires further dialogue." If there had been a possible breach of MLAT treaty obligations, then the extradition request "can't go much further;" if, on the other hand, the USG could confirm that there had been no breach, then "the GoJ can proceed." Charge' noted that, until this meeting, there had been no suggestion of a breach of treaty. Leys responded that he was not saying there had been a breach of the Extradition Treaty; he was only saying that the GoJ needed further assistance and an explanation from the USG - otherwise, "we must conclude a breach."

5.(C) Charge' then noted that the USG had worked hand-in-hand with the GoJ on this extradition request, which was not outside commonly accepted practice. He asked that any questions be addressed following Coke's arrest during an extradition hearing. Leys then said there were two issues: the narrow one of "the courts," and the larger one of the steps required under the MLAT. The "larger issue" was whether a trend was developing of Jamaicans giving evidence in the U.S. without having followed MLAT procedures. For the USG to say that this question "should be put before a court of law" missed the larger point: this was a "threshold decision" for the Attorney General; therefore, the GoJ was asking for technical discussions with the USG regarding the MLAT. Baugh then noted that this was a "technical matter." Leys questioned under what authority Jamaican officers had given evidence in the U.S. Charge' noted that the evidence had been given by employees of the GoJ as outlined in the extradition package, and that his office could make internal inquiries regarding the steps taken during this investigation. Baugh saw a need for "clarification of the process." Leys then noted that this was a process which the USG and UK had used to "inform other

extradition requests," and asked why the MLAT was not being used to obtain evidence. Leys claimed this left him in a "no-man's land; I don't know whether the U.S. is in breach of the MLAT. We need a better understanding of the mechanism of the MLAT." He then asserted that "this will determine future relations, how to go forward with future extradition requests."

6.(C) Lightbourne then noted that the GoJ's question as to whether "the information was obtained by the United States in accordance with the treaty between Jamaica and the United States on Mutual Legal Assistance in criminal matters and in accordance with the provisions of the Mutual Assistance (Criminal Matters Act" (reftel D) had not been answered. The USG response was "too qualified," and "raised other questions." Leys also maintained that the USG response did not address the question of the MLAT. Charge' reiterated that, if Mr. Coke were to contest the extradition, this question should be considered during the extradition hearing, and also pointed out that the extradition request did not hinge on only one officer's testimony. In response, Leys maintained that "without the wiretap evidence, under Jamaican law the case goes nowhere," and that "if this extradition request did not include the wiretap evidence, I would advise the Attorney General against proceeding." He described the wiretap evidence as "integral," and said that "we need technical discussions to see why established procedures were not followed." Leys said the wiretap evidence represented vital "independent corroboration," and questioned "how it was obtained from Jamaica."

7.(C) Baugh then noted that, when he recently had spoken with former Assistant Secretary Shannon concerning the Coke extradition

request, he had asked that the USG provide complete answers to the GoJ's questions. Charge' replied that the response delivered to the GoJ represented the USG's "definitive answer" on the questions raised by the Justice Ministry. Leys again asserted that the question concerning the MLAT had not been addressed, and maintained "we can deal with the other questions." In response to ChargeC)'s inquiry as to whether the GoJ questioned whether Jamaican authorities had had permission to present evidence in the U.S., Leys replied that the question was "how the wiretap evidence had gotten into U.S. courts without following MLAT procedures." Baugh then asked whether "technical meetings" could be arranged to address this "final hurdle." Charge' then asked if the GoJ would no longer insist on the names of confidential informants. Leys responded that the GoJ now understood that the USG would not identify the confidential informants in the case, but added that he did not mean to imply this no longer represented a problem for the GoJ.

8.(C) Coye observed that the MLAT recognized the sovereignty of both signatories, and asserted that, when the Jamaican officer had gone to the U.S. to present evidence without following MLAT procedures, Jamaica's sovereignty had been breached. Charge' observed that "we are setting a bridge too far," and it seemed that the GoJ's new standards were based on the subject involved, rather than on points of law or our previous practice in extradition matters. Leys replied that this was the first time the MLAT issue "has come to the fore." Charge' acknowledged that the question was not insignificant, but would be better handled during an extradition hearing. Coye said that "what we're dealing with goes beyond the Coke case; it's the principle of respecting the MLAT." Charge' responded that, if Jamaican officers had gone to the U.S. to present evidence on their own without any coordination with the GoJ, he could understand this argument; however, this had not been so, given the cooperation that had existed in putting the case together. Coye noted that the MLAT Central Authorities had not been consulted; this was the key point, and "we must stop the erosion of principle - this is a government-to-government issue," adding that "small nations take sovereignty seriously." Charge' responded that the USG was not suggesting that the GoJ should do anything only because we asked it, but because compliance was in accordance with the Treaty and previous unchallenged extradition requests. Leys then said that, under the terms of the MLAT and Jamaican law, the request for wiretap evidence should have gone to

the Minister of Justice (who had delegated authority to the Director of Public Prosecutions); because wiretaps were involved, the request then should have gone before a Jamaican judge, for approval in accordance with MLAT procedures. Charge' then asked if the GoJ's consideration of the extradition request had left it uncertain as to whether competent Jamaican authorities had authorized the introduction of evidence in the U.S., and, if so, whether the GoJ's request for "technical legal discussions" regarding the MLAT were intended to "provide information which your investigation has not answered," to which Leys replied "yes."

9.(C) Charge' then observed that the GoJ appeared to be setting a standard too high and difficult to reach, and that applied only to the Coke extradition. Baugh responded that the MLAT was "well established." Leys summed up by saying the GoJ had not yet taken a position with respect to the extradition request, but instead was requesting further assistance from the USG in the form of technical legal discussions. Coye noted that the USG had offered its assistance with the extradition process; the request for technical legal discussions was a request for assistance. Charge' noted that the question as to whether evidence similarly had been introduced in previous extradition cases would have to be considered. Lightbourne replied that, even if this had been so, she was not now at liberty to "ignore the law;" the key question was whether the steps required under the MLAT had been followed. Charge' said the Embassy would convey the GoJ's views to Washington. (Comment: Embassy Kingston recommends that the DOJ lawyers deal directly with Solicitor General Leys and Attorney General Lightbourne regarding their MLAT concerns. Leys has indicated to Charge' that he is willing to travel to Washington for consultations. Alternatively,

Post can use its good offices to arrange a suitable date / time for a telephone conversation. Post remains convinced that the GoJ's current misgivings about possible violation of MLAT provisions are an effort to prolong the decision-making process indefinitely or to deny the request. End Comment.)
Parnell